MINUTES COLUMBUS BOARD OF ZONING APPEALS MEETING July 24, 2012 AT 6:30 P.M. CITY COUNCIL CHAMBERS, 123 WASHINGTON STREET COLUMBUS, INDIANA

Members Present: Eric Frey, Chairperson; Dave Bonnell, Secretary, Hanna Omar and Lou Marr.

Members Absent: Tom Wetherald

Staff Present: Melissa Begley, Heather Pope, Sherrie Grable, Derek Naber, Rae-Leigh Stark, Trudi Smith, Bill Klakamp (County Code Enforcement) and Alan Whitted (Deputy City Attorney).

PUBLIC MEETING

Eric Frey, chairperson, opened the meeting with a brief explanation about the Board and its responsibilities.

Proof of advertising for all cases was confirmed. The petitions and staff comments are a permanent record at the Planning Department.

Alan Whitted, Deputy City Attorney, administered the oath to all in attendance that would be speaking.

OLD BUSINESS REQUIRING COMMISSION ACTION

C/CU-12-09: Garden City Iron & Metal – a request by KLM National, LLC for conditional use approval per Zoning Ordinance Section 3.5(B) to allow a waste disposal facility that is a legal nonconforming use to expand in an AP (Agriculture: Preferred) zoning district and 4.3(B)(2)(d) to allow a waste disposal facility to be located in a Wellfield Protection Overlay District. The property is located at 5 Kenmill Street in Columbus Township.

Mr. Frey asked the Petitioner to come forth.

Mr. Jeff Washburn attorney for the Petitioner and Mr. Matt Ellegood, the Petitioner came forward. Mr. Washburn stated he was retained by Mr. Ellegood about a week ago and hadn't had time to thoroughly examine the case. He stated Mr. Ellegood explained to him the Public Notice sign was placed on the wrong parcel. He is requesting a continuance to give him ample time to review the case and because of lack of proper notice.

Mrs. Begley stated it was brought to her attention that the notice was placed on the wrong parcel. She said after a discussion with the attorney for the board and the director it was decided a continuance wasn't needed. The sign is not a legal requirement but at the same time the Planning Department just received information from the Petitioner that had been asked for

previously and feels they need ample time to review the information. Therefore, there is no objection from the Planning Department for a continuance.

Mrs. Marr made a motion to continue **C/CU-12-09**. Mr. Bonnell seconded the motion. Voice vote was taken and it carried unanimously 4-0.

C/CU-12-08: Danny & Velda Johnson – a request by Danny and Velda Johnson for conditional use approval per Zoning Ordinance Section 3.12(B) to allow a two-family dwelling on a single lot in an RE (Residential: Established) zoning district. The property is located at 2531 Ohio Street, in the City of Columbus.

C/DS-12-12: Danny & Velda Johnson – a request by Danny and Velda Johnson for a development standards variance from Zoning Ordinance Section 3.12(C) to allow the living area of a dwelling to be 600 square feet, 360 square feet smaller than minimum 960 square feet required at this location in the RE (Residential: Established) zoning district. The property is located at 2531 Ohio Street, in the City of Columbus.

Mr. Frey asked the Petitioners to come forth. Mr. and Mr. Danny Johnson, Petitioners, appeared along with their attorney, Mrs. Joyce Sword.

Mrs. Pope presented the background information on the requests. She stated Variance request number 1 deals with the parking which would have far less of an impact as residential than as another restaurant being used in the detached building. Variance number 2 deals with the dwelling size. Mrs. Pope stated the average dwelling unit in a 300-foot radius is 960 square feet. The size of the dwellings in the area range from 1,566 square feet at 72 N. Gladstone and 440 square feet at 122 N. Ross Street.

Mrs. Pope stated this section of East Columbus was platted in 1893 with small narrow lots and little parking on-site. It appears the majority of the parking area is on the street.

Mrs. Sword spoke on behalf of the Petitioner. She stated by allowing the property that had previously been a restaurant to become a dwelling, would be a lot less traffic and therefore a lot less noise. She said it would be beneficial to the public health and helpful to the general welfare of the community.

Mrs. Sword said on the Development Standards Variance, number 2 says "the use and value of the area will not be affected in a substantially adverse manner". She stated she believed that when they go from a restaurant to a single family residence they are again getting away from the high traffic, getting away from noise, getting away from smells so it would actually be enhancing the value of the area. She said another thing that will happen is the building is going to be remodeled on the inside and outside as well. The Petitioners will be going from a restaurant to residential which is what is around the area. Mrs. Sword stated the Petitioners would be bringing the property back into compliance with what the standards are for that area for the future and what they are now.

Mr. Frey asked if the board had any questions of the Petitioners. There were none.

Mr. Frey opened the meeting up to the Public for comment and asked if there was anyone who wished to speak on these requests.

There was no one to speak for or against the requests.

Mr. Frey closed the meeting to the public.

Mr. Frey asked if there were any conditions.

Mrs. Pope stated there were none.

Mr. Frey asked if there were any questions or if anyone on the board had a motion.

Mr. Frey stated each case would be taken individually, the first one being C/CU-12-08.

Mr. Bonnell made a motion to approve C/CU-12-08 as requested and accept staffs findings of fact. Mrs. Marr seconded the motion.

Mr. Frey asked if there was any discussion. A voice vote was taken and approved by a vote of 4-

Mr. Frey stated the next one, the developmental standard variance for offsite parking to be voted on.

Mrs. Omar made a motion to approve **C/CU-12-08**, the developmental standard variance for offsite parking and the staff's findings of fact. Mrs. Marr seconded the motion.

Mr. Frey asked if there was any discussion. There was not.

Variance request number one was approved with a voice vote of 4-0.

Mr. Frey stated the last to be voted on is developmental standard variance number two for dwelling unit size.

Mrs. Marr made a motion to approve **C/CU-12-08** and accept the findings of fact. Mr. Bonnell seconded the motion.

Mr. Frey asked if there was any discussion. There was not.

Variance request number two was approved with a voice vote of 4-0.

C/DS-12-08: Richards Grain Elevator Expansion – A request by Newton Properties Group for a development standards variance from Zoning Ordinance Section 10 (Table 10.1) to allow (1) 4 wall signs, one more wall sign than permitted, (2) wall signs to total an area of 192 square feet, 42 square feet greater than the maximum 150 square feet permitted, (3) a freestanding sign that is 18 feet tall, 3 feet taller than the maximum permitted and (4) a freestanding sign that is 95 square

feet, 45 square feet larger than the maximum permitted in an AP (Agriculture: Preferred) zoning district. The property is located at 1442 West 550 North in German Township.

Ms. Stark presented the background information on the request. She stated this is an existing grain elevator. On April 24, 2012 this petition went before the Board of Zoning Appeals for a Conditional Use for an expansion and also Developmental Standards Variances for their signs. The Conditional Use for the expansion was approved and with that approval they were required to pave the first 50 feet of the entrance and the Developmental Standards Variance was continued so the applicants could figure out exactly what they wanted.

Ms. Stark stated the site was originally approved in 2009 for Richards Elevator and was just expanded a few months ago. She said at that time there was originally one wall sign approved and one free standing sign approved. Since that time the wall sign has been installed and the free standing sign has not.

Ms. Stark said the first variance is regarding the number of wall signs. Permitted in this zoning district Richards Elevator is allowed to have one sign. Ms. Stark stated they were previously approved during their Conditional Use to have one sign. Currently they are proposing a total of four signs.

Ms. Stark stated the second variance is for the area of the wall signs. Permitted by the ordinance and also previously approved is 150 square feet and are proposing a total of 192 square feet.

Ms. Stark stated the third variance is the height of the free-standing sign. This was permitted and previously approved at 15 feet and they are now proposing a total of 18 feet.

Ms. Stark said the fourth variance is the same sign as in variance number three. The area is permitted at 50 square feet and was previously approved for 32 square feet. They are currently asking for 95 square feet.

Ms. Stark indicated that the free standing sign, if installed, would require landscaping to be installed around the base as required by the Zoning Ordinance. She stated a landscape plan has been submitted that meets the requirements of the Zoning Ordinance.

Mr. Bonnell asked if the wall signs were all four combined. Ms. Stark stated that it is.

Mr. Bonnell stated that it appears this is two businesses in one, a grain elevator and a feed store. He asked if that should make a difference in the number of signs allowed.

Ms. Stark said that has been discussed that there is both agriculture, which is the grain elevator and selling which is the feed store.

Mr. Bonnell stated he felt both were agriculture.

Ms. Stark stated the amount of traffic that the feed store generates is not typical for what the Planning Department would consider just agriculture.

Mr. Frey asked if there were any other questions of staff.

Mr. Bonnell stated the signage they have is fairly consistent with what other grain elevator's that have grain but also have feed.

Mr. Frey asked the Petitioner if he would like to comment.

Mr. Phil Newton replied at the last meeting, he had proposed two signs. He stated after the recommendation of getting a professional involved the additional free-standing sign has been nixed.

Mr. Newton stated the original height of the sign they had requested was 18 feet high. They have toned that down to 15 feet.

Mr. Shawn Green presented a power point presentation noting the area and where the signs would be placed and the letter size. He asked if there were any questions.

Mrs. Begley asked what the speed limit was at the location.

Mr. Newton stated he believed it is 55 mph. He stated by the time the traffic comes off of Highway 31 and passes his place they are at a minimum going 50 mph. If traffic is coming from the west they do start to slow down some because they know they have to stop at the light on Highway 31.

Mr. Newton indicated they had looked at the electronic sign and decided that wouldn't work because people were trying to read that type of sign as it was rotating and he didn't feel it was safe. He stated having the letters would mean it would be a fixed item people could see and would work better for his business. He felt they had two options one being 76 square feet and the other is 66 square feet.

Mr. Newton stated he would prefer the 76 square feet mainly because it has been brought down from the 10 inch letters to 8 inch letters. He felt if he was going to make the investment he would rather make the investment in something that is going to benefit the public.

Mr. Green stated the first option would make the sign more legible, which would make it safer.

Mr. Frey asked if there were any questions of the Petitioner by the board before the meeting is opened to a public hearing. There were none.

Mr. Frey opened the meeting to the public. There was no one to speak for or against this request.

Mr. Frey closed the meeting to the public.

Mr. Frey questioned if Richards Elevator went to the 15 feet does it comply?

Ms. Stark stated yes it did and it would take away one of the variances.

Mr. Frey asked which variance that would be.

Mr. Bonnell stated it would be variance number 3.

Ms. Stark stated in regard to the changeable copy, part has to be at maximum 6 inches separation from the Richards Elevator logo. She indicated the changeable copy part can't exceed 75% of the total of the primary sign.

Mr. Green questioned why the 6 inches and Ms. Stark stated it was because it looked like two signs as opposed to what it is met to convey.

Mr. Frey asked if they do get the free-standing sign do they have to meet the landscaping requirement.

Ms. Stark said no, the condition is if they do get approved they should pave or concrete from the entrance to the northern edge of lot 3A, the Shooter's Minor Subdivision.

Mr. Newton stated many of the customers that buy feed are the same customers that are bringing their grain in. He feels it is agricultural related business, they are not selling gates or a lot of unrelated things.

Mrs. Omar questioned how much of their business was due to the signage and how much was due to the fact people just came there because they knew it was there.

Mr. Newton stated the signs are company specific, they say they are a Kent dealer and a Nutrina dealer. He said there are people who that are loyal to those two particular brands. He noted their busiest time in the feed business is from about March thru the fair time.

Mr. Green stated when Mr. Newton contacted him it was to increase the business. He commented that it is a proven fact that the proposed signs would pay themselves off in 2 years or less. He said the signs will increase the business that much.

Mr. Newton proposed they hard surface from the road back to the north gate.

Mr. Bonnell asked if Mr. Newton hard surfaced back to the north gate did it not make the other 3 variances disappear?

Mr. Naber stated sign standards are based on the zoning district not the type of use. The zoning district is staying the same so the variances are still applicable.

Mr. Newton said what he is proposing this in order to get the signage.

Mrs. Marr stated she felt it was getting to be a problem with all the different businesses in that area and what does it fall under.

Mr. Bonnell stated what he felt was being proposed was one sign on each wall.

Mrs. Marr stated if one does it she felt like it had to be done for all.

Mr. Green stated he felt it was more of a challenge for the small business to promote its information compared to larger businesses.

Mr. Newton stated the 4 signs are all they need.

Mrs. Begley stated in the previous meeting there was a debate as to whether we treat this as a commercial venture or an agricultural venture. She stated the decision was to treat it as an agriculture structure.

Mr. Bonnell stated as he understood at the last meeting is it was a commercial level and the increased signage was allowed.

Mr. Bonnell made a motion to approve **C/DS-12-08** variance 1 to allow four signs as exhibited. Findings of Fact: Fact 1: No hazards or safety concerns 2: No adverse effect on the adjoining properties 3: The site is a blended agricultural use of the facility.

Mr. Frey asked if there were any conditions.

Mr. Bonnell stated he would stipulate that the Petitioner hard surface the front drive-way from the entrance on 550 to the north side of the gate of the adjoining property.

Mrs. Omar seconded the motion.

Mr. Frey asked if there was any discussion. There was none. A voice vote was taken and the motion carried 3-1 with Mrs. Marr being the nay vote.

Mr. Bonnell moved for approval of variance number 2 also. Findings of Fact being: 1: The additional 42 square foot is not hazardous the community, in fact it may improve the safety as far as travel. Item 2: There is no ill effect to the adjacent property and 3: With the nature of the business that presents some hazards that criteria will have been met.

Mr. Frey stated the conditions from the last one don't need to repeat. Variance request number 3 has been withdrawn because the height has been reduced to 15 feet.

Mrs. Omar seconded the motion.

Mr. Frey asked if there was any discussion. There was none. A voice vote was taken and the motion carried 3-1 with Mrs. Marr being the nay vote.

Mr. Bonnell made a motion to approve variance request number 4 and the variance request would be stipulated at the 65.87 foot total changeable signs and the changeable copy be 6 inches apart. Finding of Fact being: 1: The sign will actually ease visualization and thus be safer; 2: the use of adjacent properties will not be affected:

Mrs. Omar seconded the motion.

Mr. Frey asked if there was any discussion. There was none. A voice vote was taken and the motion carried 3-1 with Mrs. Marr being the nay vote.

Mrs. Begley stated to the Petitioner he would be required to get a Zoning Compliance Certificate for the additional asphalt and a Zoning Compliance Certificate for the retroactive wall signs and the new free standing sign.

NEW BUSINESS REQUIRING BOARD ACTION

C/UV-12-04: Dog World - a request by Nick Woolls for a use variance from Zoning Ordinance Section 3.24(A) to allow a kennel to locate in an I-2 (Industrial: General) Zoning District. The property is located 550 feet south of Marr Road on the southeast side of Southpark Court in the City of Columbus.

Mr. Naber presented the background information on this request. He stated back on April 24, 2012 the Board of Zoning Appeals approved a Use Variance two properties north of the current site we are looking at. This case number was **C/UV-12-03** which allowed a kennel at that property location which is also in the I-2 zoning district. The applicant has stated that due to an increase in the lease rate it has made that property unaffordable and they are looking at going two properties to the south at the undeveloped property of lot 4. One item of note is that if the board were to approve of this new site the other site is also still permitted to operate a kennel, so technically two kennels could move into this area.

Mr. Frey asked if there were any questions of staff. There were none.

Mr. Tim Barr stated the area Mr. Woolls is looking at has a larger buffer area and gives the dogs a little bit more space to utilize.

Mr. Nick Woolls, Petitioner, stated basically what he is looking for is a building where he doesn't interfere with anyone else's business or anyone else's home.

Mr. Frey asked if there were any questions from the staff. There were none.

Mr. Frey opened the meeting to the public.

Ms. Belinda Graber stated this is small business at its best. She feels this is a real plus for Southpark and for Columbus.

Mr. Travis Fox, a representative of Inlet Engineering Inc., who just purchased the previous Rock Tenn building. Mr. Fox had numerous questions for the Petitioner such as how many dogs would be there at one time, how would the animal waste be disposed of, what is the drop off procedure, etc.

Mr. Woolls explained there would be no more than 120 dogs at any one time. He said the animal waste would be disposed of by being carried out to the dumpster. His plan is to possibly extend the hours of operation by half an hour so the pick-up flow would run a little smoother.

Mr. Frey closed the public hearing.

Mr. Frey asked if there were any other question for the Petitioner or questions from the board. Mr. Woolls asked if there was any way to take the variance off of the previous filing he brought before the board.

Mrs. Begley stated she wasn't certain what the proper procedure was for withdrawing a previous variance that had been approved.

Mr. Whitted stated the Petitioner would need to go through the normal process because the variance has already been granted. He indicated the Petitioner would need to get a signature from the owner of the previous property to withdraw the variance.

Mrs. Marr stated a site plan is going to have to be approved and that is where the details would be worked out for either place.

Mr. Whitted stated it sounds like a contract needed to be drawn up between the Petitioner and the owner and this wouldn't have happened.

Mr. Woolls said he thought the person he was originally going to rent off of was a man of his word. He stated he could not afford the jump in the rent, thus he had to look for another place.

Mrs. Marr made a motion to approve **C/UV-12-04** and accept staff's finding of fact number 1, 2. Regarding number 3 she thinks the condition is peculiar to this property or any piece of property because there is no accommodation in the ordinance for this type of business. Mrs. Marr said number 4 is the unnecessary hardship is the fact that we don't have any rules or any information in our ordinances about this type of business. She stated number 5 does not interfere with the Comprehensive Plan because the Comprehensive Plan was designed to accommodate our growing community and our diverse community.

Mr. Frey asked if there were conditions.

Mrs. Begley stated yes there are.

Mr. Naber stated the condition was in relation to a comment by the Engineering Department regarding how the animal waste is handled should be deemed satisfactory.

Mrs. Marr added to her motion that the Engineering Department's conditions be met.

Mrs. Omar seconded the motion.

Mr. Frey asked if there was any discussion. There was none. A voice vote was taken and the motion passed 3-1 with Mr. Frey being the nay vote.

FINDINGS OF FACT

C/DS-12-10: Don's Auto Sales

Mr. Bonnell made a motion to approve the findings of fact and it was seconded by Mrs. Marr.

Motion carried by a voice vote of 4-0.

C/CU-12-05: The Ridge

Mrs. Marr made a motion to approve the findings of fact and it was seconded by Mr. Bonnell.

Motion carried by a voice vote of 4-0.

C/DS-12-07: The Ridge

Mr. Bonnell made a motion to approve the findings of fact and it was seconded by Mrs. Marr.

Motion carried by a voice vote of 4-0.

APPROVAL OF MINUTES

Mrs. Marr made a motion to approve the minutes of June 26, 2012 and it was seconded by Mrs. Omar. Motion carried by a voice vote of 4-0.

DISCUSSION ITEMS

Mrs. Marr stated she felt that as many variances that had been given the last 3 or 4 years to all sorts of businesses for signs the Planning Staff and Commission need to look at the Sign Ordinance carefully. She feels when you give that many variances to all different kinds of businesses something is wrong.

Mr. Bonnell stated the number of variances total. He said the Board of Zoning Appeals has had more variances in the last 2 years than they have had for a long time.

Mrs. Marr stated there have been a tremendous number and they have been in the City. She feels when that many variances are given the Ordinance is not working.

Mrs. Begley stated she knew Mrs. Marr had made that point before and the Planning Staff did look at the trends from the last several years. She said 2008 was the worst year because we had a new Ordinance, but it has been trending downward.

Mrs. Marr stated she believed things were not consistent.

Mrs. Pope stated when the new Zoning Ordinance came in to affect in 2008 a lot of the Special Use zonings were eliminated. She noted some of the applications the Board of Zoning is now seeing

are ones that Plan Commission use to see because of the elimination of the Special Use filing. Mrs. Marr stated when it came to signs she felt there was no consistency.

Mr. Naber stated the last set of Zoning Ordinance revisions they did modify some sign requirements which included the visibility triangle.

Mr. Whitted stated one thing members needed to remember was that signs had a special protection because it is commercial speech, it is constitutionally protected speech. It is not quite as protected as political speech and religious speech but signs are considered speech. He stated the board needs to be careful about being too restrictive.

Mrs. Begley said it is a sad day in the Planning Department because we are losing one of our very valuable employees, Heather Pope. Heather has taken the job as Director of Redevelopment. We are really sad to see her go but also very excited for her.

Mrs. Begley informed the board that iPads have been purchased for the council chambers to help reduce the amount of paper used. She stated they are available for board members to use during the meeting if they so choose.

The meeting was adjourned at 9:00 p.m.

Eric Frey, Chairperson

Dave Bonnell, Secretary

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